

REMARKS

The present Amendment is in response to the Office Action. Claims 2-7, 9, and 10 are amended herein, claim 1 is canceled, and new claims 12-18 are added herein. Claims 2-18 are now pending in view of the above amendments. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks.

I. General Considerations

A. Claim Amendments

With particular reference to the claim amendments, Applicants note that while certain claims have been amended herein, such amendments have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicants, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicants hereby reserve the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicants submit that neither the claim amendments set forth herein, nor any other claim amendments, claim cancellations or statements advanced by the Applicants in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

B. Remarks

Applicants respectfully note that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicants have broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicants, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicants note as well that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teachings and purported prior art status of the cited references at any appropriate time.

II. Allowable Subject Matter and Objection to Claims 6-11

The Examiner has objected to claims 6-11 as being dependent on a rejected base claim, but has indicated that such claims would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants appreciate the Examiner's indication of allowable subject matter in claims 6-11.

In accordance with the Examiner's suggestion, Applicants have rewritten claim 7 in independent form including all of the limitations of claim 1, which is now cancelled. Accordingly, withdrawal of the objection to claim 7 is respectfully requested. Moreover, in light of the amendments made to claims 6, 9, and 10 to depend from allowable claim 7, the objection to claims 6 and 8-11 is rendered moot and withdrawal of the objection to these claims is respectfully requested.

In connection with the foregoing, Applicant respectfully notes that an objection, by definition, concerns only the form of the claim(s) (as distinguished from the substance of the claim) with respect to which the objection has been posed. *See Manual of Patent Examining Procedure §§ 706.01, 608.01(n)* (emphasis added). Thus, simply rewriting a dependent claim in the manner suggested by the Examiner constitutes only a change to the format of the claim and, without more, has no effect with regard to the substance of the rewritten claim.

Because Applicant has made no change to claim 7 other than to rewrite claim 7 in independent form to include all of the limitations of the base claim and any intervening claims, Applicants respectfully submit that no change has been made herein to the substance of claim 7 and, further, that claim 7, as rewritten herein, is now in condition for allowance.

III. Rejections Under 35 U.S.C. § 102

Applicants respectfully note that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure ("MPEP") § 2131.*

The Examiner has rejected claims 1-5 under 35 U.S.C. § 102(e)¹ as being anticipated by United States Patent No. 5,617,495 to *Funabashi et al.* ("Funabashi"). Applicants respectfully disagree. Nonetheless, in the interest of expediting allowance, Applicants have cancelled claim 1 and have rewritten claim 7 in independent form including all of the limitations of claim 1, in accordance with the Examiner's suggestion. Accordingly, claim 7, as rewritten herein, is now in condition for allowance. In

¹ Because *Funabashi* is only citable under 35 U.S.C. § 102(e) Applicants do not admit that *Funabashi* is in fact prior art to the claimed invention but reserve the right to swear behind *Funabashi* if necessary to remove it as a reference.

addition, claims 2-5, which have been amended to depend from allowable claim 7, are in condition for allowance.

Furthermore, with respect to claim 5, the Examiner inconsistently identified two separate elements in *Funabashi* as the claimed “lens.” More specifically, a partition 50 was identified as the claimed lens in rejecting claim 1, but a lens 44 was identified as the claimed lens in rejecting claim 5. Therefore, Applicants respectfully request clarification of the claim 5 rejection should the Examiner maintain the 102(e) rejection.

IV. New Claims 12-18

By this paper, Applicants have added new claims 12-18. Claims 12-18 are believed to be in allowable condition for at least the following reasons.

Claim 12 recites, among other things, “an integrated component unit mounted on said mounting surface, said integrated component unit comprising:...a focusing lens....” In contrast, however, the lens identified by the Examiner in *Funabashi* is, in fact, merely a glass partition 50. The glass partition 50 is not a “lens,” much less a “focusing lens,” as recited in claim 12, because it merely serves to “define a position of the end of the optical fiber 48.” *See Funabashi* at col. 4, lines 16-20.

Applicants submit claim 12 is allowable for other reasons as well. For example, the pertinence of *Funabashi* is not apparent with respect to certain elements of claim 1, which are also recited in new claim 12, and the Examiner has not identified or explained with sufficient clarity where such elements are believed to be found in *Funabashi*. More specifically, the Examiner has not identified in *Funabashi* where the claimed “mounting surface,” the claimed “integrated component unit mounted on said mounting surface,” or the claimed “solid body defining at least first and second surfaces” are taught.

In connection with the following remarks, Applicants note that “[i]n rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” 37 CFR § 1.104 (emphasis added). Moreover, “[t]he goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” MPEP § 706. Therefore, should the Examiner determine that claim 12 is anticipated by *Funabashi*, Applicants respectfully request a more detailed explanation of where the foregoing claim elements (“mounting surface,” “integrated component unit mounted on said mounting surface,” and “solid body defining at least first and second surfaces”) are believed to be found in *Funabashi*.

Claim 15 recites, among other things: “a first metallization extending over a portion of [a] lens component and connected in an electrically conducting fashion to [an] electro-optical component and to a first corresponding connector pad on [a] mounting surface of [a] substrate.” In contrast, neither the glass partition 50 (identified as the lens in claim 1) nor lens 44 (previously identified as the claimed lens) of *Funabashi* has “a first metallization extending over a portion” thereof, as required by claim 15. Accordingly, claim 15 is neither anticipated nor rendered obvious by *Funabashi* but is instead believed to be in condition for allowance.

New claims 13 and 14 depend from allowable claim 12 and new claims 16-18 depend from allowable claim 15. Therefore, claims 13, 14, and 16-18 are submitted to be in condition for allowance at least by virtue of their dependence from an allowable base claim.

V. Fee Payment

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to **Deposit Account No. 23-3178**: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to **Deposit Account No. 23-3178**.

CONCLUSION

In view of the remarks submitted herein, Applicants respectfully submit that each of the pending claims is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 2nd day of October, 2009.

Respectfully submitted,

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